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November 18, 2020

Roxanne L. Rothchild
Executive Secretary
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

RE: Riverview Nursing Facility and SEIU Healthcare Missouri-Kansas
Case No. 14-RC-265356

Dear Ms. Rothchild:

SEIU Healthcare Missouri-Kansas ("Petitioner") submits this letter pursuant to Section 102.6 of the Board's Rules and Regulations and in response to Riverview's ("Employer") letter dated November 13, 2020 regarding *Aspirus Keweenaw*, 370 NLRB No. 45 (2020). The Board should still deny the Employer's Request for Review.¹

First, as argued by Petitioner in earlier pleadings, the Employer's Request for Review violates Section 102.67(e) of the Board's Rules and Regulations by including exhibits and factual assertions along with arguments based on those exhibits and assertions that were not in the record and not timely presented to the Acting Regional Director ("RD"). The Employer so heavily relies on new information in its Request, in an effort to fix the arguments it originally presented to the Acting RD, that it taints the Request in its entirety. The Employer does not get a

¹ The Employer's Motion to Stay the Mail Ballot Election is now moot. The deadline for return of the mail ballots was November 13, 2020, and the Region has impounded them.

mulligan under the *Aspirus* case. Because the Employer's Request for Review is defective, and the Board can and should still deny the Request.

Second, the Employer's request for remand is not appropriate because the Acting RD did look at facts related to the factors outlined in *Aspirus*. The Acting RD examined the state of the pandemic in the counties considered part of the greater St. Louis area near the time he issued his Decision, which corresponds to factor No. 2 under the *Aspirus* case. The Acting RD noted that as of September 22, 2020 (two days before the Decision), the greater St. Louis area had reported a seven-day increase in positivity ratings. The Acting RD also noted "other similarly compelling considerations" necessitating mail-ballot election including the very real potential of an employee being deprived of the ability to vote if he or she tests positive for Covid-19 or must quarantine due to Covid-19 exposure. Accordingly, the Acting RD did not abuse his discretion when ordering a mail-ballot election under the six *Aspirus* factors and a remand is not necessary.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 18th day of November 2020 a copy of the foregoing document was electronically filed and emailed to the following parties

Via E-File

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